

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

**CARA NASISI, ROBIN CHERNOFF,
INDIVIDUALLY AND ON BEHALF OF
ALL OTHERS SIMILARLY SITUATED,**

Plaintiffs,

v.

**COMPREHENSIVE HEALTH
MANAGEMENT, INC.,**

Defendant.

Civil Action No. 1:19-4132-KPF

Hon. Katherine Polk Failla

**ORDER ON AGREED MOTION TO CONDITIONALLY CERTIFY NARROWED
CLASS AND APPROVE NOTICE TO
POTENTIAL PLAINTIFFS IN THE COLLECTIVE**

Before the Court is the parties' Agreed Motion to Conditionally Certify Narrowed Class And Approve Notice to Potential Plaintiffs in the Collective. Upon consideration of the motion, and for good cause shown, it is hereby ORDERED that the parties' Motion to Conditionally Certify Narrowed Class And Approve Notice to Potential Plaintiffs in the Collective is granted and that:

1. The court conditionally certifies the following class as a collective action:

All current and former employees who worked for Defendant in Illinois, Kentucky, New Jersey, and New York in the three years prior to entry of this Order, who were paid a salary, classified as exempt under the FLSA and who were employed in the following positions: Care Manager, Care Manager, Sr., Field Care Manager (including Pediatric Field Care Managers), Field Care Manager, Sr., Behavioral Health Care Manager, Behavioral Health Care Manager, Sr., Clinical Social Worker, Clinical Social Worker, Sr., Onsite Inpatient Care Manager, Behavioral Health UM Care Manager and Behavioral Health UM Care Manager Sr. The class will also include current and former employees, if any, who worked for Defendant in Illinois, Kentucky, New Jersey, and New York in the three years prior to entry of this Order in the following positions to the extent that any such employees were paid a salary and classified as exempt under the FLSA: Service Coordinator, Field Service Coordinator, Utilization Review Nurse, Clinical Appeals Review Nurse,

Inpatient Clinical Appeals Review Nurse, Clinical Claims Review Nurse and Prior Authorization Nurse.

2. Defendant is ordered to produce the names, job title, dates of employment, last known mailing addresses, last known personal and work e-mail addresses, mobile telephone numbers, and state of employment (“Employee Information”) for all employees who fall in the collective defined in paragraph 1.

3. Defendant shall provide the Employee Information in an electronic format that can be used by Plaintiffs in mailing out the Court-approved Notice. This information must be produced to Plaintiffs within twenty-one (21) days of the entry of this Order. If Defendant fails to provide the Employee Information within twenty-one (21) days of the date of entry of this Order, the statute of limitations is equitably tolled for each day after the twenty-first (21st) day that Defendant fails to provide the Employee Information.

4. The Court authorizes that the agreed Notice of Lawsuit and Consent to Join forms submitted by the Parties in Exhibit 1 to their Agreed Motion to Conditionally Certify Narrowed Class and Approve Notice to Potential Plaintiffs in the Collective, may be immediately issued to those individuals whose names are being provided as required by this Order. The Consent to Join form shall be enclosed with the Notice to Collective Action Members, along with a self-addressed, postage paid return envelope for U.S. Postal Mailing. The Notice and Consent forms shall be mailed by First Class regular U.S. Mail at Plaintiffs attorneys’ cost.

5. The Court also authorizes Plaintiffs to send Notice via electronic mail. The Court specifically authorizes Plaintiffs to send a brief electronic message with a link to the Notice and Consent to Join form to each Collective Action Members’ personal and/or work email address. If Defendant is unable to provide a valid email address for a Collective Action Member, Plaintiff is

authorized to send a brief text message with a link to the Notice and Consent to Join form to the Collective Action Member's cell phone. Persons receiving the Notice and Consent to Join form shall be given the option to sign their forms electronically. The electronic mail notification shall consist of a message that contains the Notice in the body of the message with a link to view and sign the Consent to Join form in the program DocuSign, which allows for electronic signature by the person viewing the document. The text message set forth herein will contain more or less the following language: "Wellcare Overtime Lawsuit: Comprehensive Health Management, Inc.'s records show that you are eligible to join a lawsuit for unpaid overtime. Click below to view the official Notice form, which includes additional information about the lawsuit. Werman Salas, P.C. 312-419-1008" and shall contain links to electronic versions of the Notice and Consent to Join forms.

6. The Court further authorizes Plaintiffs to send a one-time reminder notice to Collective Action Members who have not submitted a completed Consent to Join form thirty-five (35) days after the Notice is originally issued. The reminder notice will be sent to Collective Action Members via electronic mail, or text message if Defendant is unable to provide a valid email address for a Collective Action Member, in the same form as described in the paragraph above.

7. The Collective Action Members shall be provided sixty-three (63) days after the date the Notice and Consent forms are initially mailed to file a Consent to Join form opting-in to this litigation. A Consent to Join form postmarked on the deadline is considered timely. Consents received by mail without postmarks shall be considered timely if received within five business days of the deadline. Plaintiffs shall provide the Court and opposing counsel with a notice indicating the date on which the Notice forms are initially mailed so the Court and the Parties are advised of the beginning of the opt-in period. Plaintiffs' counsel shall file the returned Consent to

Join forms with the Court upon receipt. If a Consent to Join form is submitted on a weekend, Plaintiffs' counsel shall file the Consent to Join form on the next business day after receipt.

8. Within 30 days after the close of the opt-in period, the Parties are directed to confer pursuant to Fed. R. Civ. P. 16(b) to present the Court with a Supplemental Proposed Civil Case Management Plan and Scheduling Order setting forth the Parties' agreements concerning class certification discovery. The Parties must file the Supplemental Proposed Civil Case Management Plan and Scheduling Order within 120 days of entry of this Order.

9. Plaintiffs' Motion for Step-one Notice Pursuant to the Fair Labor Standards Act (Dkt. # 54) is moot, and the briefing schedule on that motion is stricken.

10. This Order is without prejudice to Defendant's right to move for decertification of this FLSA collective at an appropriate time or assert any other applicable defenses in the action.

Signed this 15th day of November, 2019

New York, New York



KATHERINE POLK FAILLA
U.S. DISTRICT COURT JUDGE